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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR   | ATTORNEY DOCKET NO.     | CONFIRMATION NO. |
|--|-------------|------------------------|-------------------------|------------------|
| 10/049,157   | 02/01/2002  | Michael Franklin Glass | 02004.056               | 8262             |
| 7590   | 11/23/2004  |                        | EXAMINER                |                  |
| Christopher J Fildes<br>Fildes & Outland<br>Grosse Pointe Woods Suite 2<br>20916 Mack Avenue<br>Michigan, MI 48236 |             |                        | ROSENBERG, LAURA B      |                  |
|  |             |                        | ART UNIT                | PAPER NUMBER     |
|  |             |                        | 3616                    |                  |
|  |             |                        | DATE MAILED: 11/23/2004 |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                               |                         |
|------------------------------|-------------------------------|-------------------------|
| <b>Office Action Summary</b> | Application No.               | Applicant(s)            |
|                              | 10/049,157                    | GLASS, MICHAEL FRANKLIN |
|                              | Examiner<br>Laura B Rosenberg | Art Unit<br>3616        |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 September 2004.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,3-5,7,8,10,14-18 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,3-5,7,8,10,14-18 and 20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

1. This office action is in response to the amendment filed on 10 September 2004, in which claims 1, 3, 10, and 18 were amended, claims 2, 11-13, and 19 were canceled, and claim 20 was added.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3-5, 7, 8, 10, 14-18, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Brownyer et al. (3,231,258). In regards to claims 1, 3, 8, 10, and 17, Brownyer et al. disclose a suspension system (best seen in figures 6, 8) for a vehicle wheel set (#24) comprising an upper leaf spring (#144, 168) and a lower leaf spring (#146, 170), each being mounted on opposed sides of an associated vehicle generally transversely of an associated vehicle axle (#20), one end (left side in figures 6, 8) of each upper and lower leaf spring comprising connection means (#40, 150, 176, 178, 179) for attachment thereof to an associated vehicle chassis (#22), the lower leaf spring being mounted over the associated vehicle axle with an opposite end thereof (right side in figures 6, 8) forming a further connection means (#44, 152, 154, 156, 180, 182, 184) for attachment thereof to the associated vehicle chassis, and auxiliary spring means (#34, 36) mounted in series with the upper leaf spring (best seen in figures 6, 8),

wherein the auxiliary spring means (#34, 36) is mounted on the upper leaf spring (#144, 168) on a part thereof spaced above the lower leaf spring (#146, 170) and at a position generally intermediate the vehicle axle (#20) and a point of attachment of the opposite end (right side in figures 6, 8) of the lower leaf spring to the vehicle chassis (best seen in figures 6, 8), and the auxiliary spring means is arranged to alter a deflection rate of the suspension system in proportion to an imposed load at constant ride height (column 5, lines 4-39). With regards to auxiliary spring means being arranged to provide the associated vehicle with ride characteristics and dynamic deflection geometry substantially the same as those of a conventional leaf spring system in order to mimic the dynamic deflection geometry of a conventional leaf spring system around the normal loading range, while Brownyer et al. is able to perform this function, this is a strictly functional limitation that has not been positively claimed, and therefore does not serve to distinguish.

In regards to claims 4 and 14, Brownyer et al. disclose the auxiliary spring means (#34, 36) comprising an air spring (column 2, lines 60-61).

In regards to claims 5 and 15, Brownyer et al. disclose the auxiliary spring means comprising a mechanical spring means (including motion transmitting linkage and lever #124, 126).

In regards to claims 7 and 16, Brownyer et al. disclose the system being arranged to obviate or substantially reduce torsion being applied to the axle (column 3, line 67-column 4, line 2) and thereby maintain the full axle control of a conventional leaf

spring system. The examiner notes that this limitation is strictly functional and not positively claimed; therefore it does not serve to distinguish.

In regards to claim 18, Brownyer et al. disclose a suspension system (best seen in figure 8) for a vehicle wheel set (#24) comprising an upper leaf spring (#168) and a lower leaf spring (#170), each being mounted on opposed sides of an associated vehicle generally transversely of an associated vehicle axle (#20), one end (left side in figure 8) of each upper and lower leaf spring comprising connection means (#176, 178, 179) for attachment thereof to an associated vehicle chassis (#22), the lower leaf spring being mounted over the associated vehicle axle with an opposite end thereof (right side in figure 8) forming a further connection means (#180, 182, 184) for separate attachment thereof to the associated vehicle chassis, and auxiliary spring means (#34, 36) mounted in series with the upper leaf spring (best seen in figure 8) towards an opposite end (right side in figure 8) thereof for separately attaching the opposite end of the upper leaf spring to the associated vehicle chassis (via upper leaf spring connection to #66, 34, 36; best seen in figure 8), wherein the auxiliary spring means (#34, 36) is mounted on the upper leaf spring (#168) on a part thereof spaced above the lower leaf spring (#170) and at a position generally intermediate the vehicle axle (#20) and a point of attachment of the opposite end (right side in figures 6, 8) of the lower leaf spring to the vehicle chassis (best seen in figure 8).

In regards to claim 20, Brownyer et al. disclose the auxiliary spring means comprising means (including #83-88) arranged to detect the height across the vehicle

and to adjust the auxiliary spring means to compensate for any difference in height (column 4, lines 3-36).

***Response to Arguments***

4. Applicant's arguments filed 10 September 2004 have been fully considered but they are not persuasive. In regards to arguments on pages 9-10, nowhere in the prior art rejection has the examiner set forth that the beam (#66) is a leaf spring. Further, the terms "series" and "parallel", when not used to refer to a specific electrical circuit, can be interpreted many ways. The examiner maintains that the auxiliary spring means (#34, 36) are mounted in series with the upper leaf spring (#144, 168) to the same extent as similar features in the applicant's claimed invention.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura B Rosenberg whose telephone number is (703) 305-3135. The examiner can normally be reached on Monday-Friday 7:00am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (703) 308-2089. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Laura B Rosenberg  
Patent Examiner  
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LBR

*Paul N. Dickson 11/19/04*  
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